

LGNSW SUBMISSION

Housing SEPP Amendments- Explanation of Intended Effects

DEC 2022

Local Government NSW (LGNSW) is the peak body for local government in NSW, representing NSW general purpose councils and related entities. LGNSW facilitates the development of an effective community-based system of local government in the State.

OVERVIEW OF THE LOCAL GOVERNMENT SECTOR



Local government in NSW employs **55,000 people**



Local government in NSW looks after more than **\$177 billion of community assets**



Local government in NSW spends more than **\$2.2 billion each year on caring for the environment, including recycling and waste management, stormwater management and preserving and protecting native flora and fauna**



NSW has more than **350 council-run libraries that attract tens of millions of visits each year, and more than 400 public swimming and ocean pools**



Local government in NSW is responsible for about **90% of the state's roads and bridges**



NSW councils manage an estimated **4 million tonnes of waste each year**



NSW councils own and manage more than **600 museums, galleries, theatres and art centres**

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OPENING

As the peak body for local government in NSW, representing NSW general purpose councils and related entities, Local Government NSW (LGNSW) welcomes the opportunity to provide comment to the NSW Department of Planning and Environment (the Department) on the Explanation of Intended Effect (EIE) - Proposed amendments to the in-fill affordable housing, group homes, supportive accommodation and social housing provisions of the State Environmental Planning Policy (Housing) 2021, Housing SEPP.

LGNSW recognises and supports the NSW Government's aim to deliver more diverse and affordable homes and provide increased investment certainty for social and affordable housing forms.

Many of the policy levers to increase the supply of affordable and social housing are outside the planning system and most policy-settings relating to the drivers of housing demand rest with State and Commonwealth Governments and arguably have greater impact on housing prices and affordability – as we have seen following recent interest rate rises.

That said, there is potential for further improvements beyond what is proposed in the EIE, with greater collaboration between state and local governments on delivery of social and affordable housing. At the recent 2022 LGNSW Annual Conference, NSW councils proposed a range of planning system policy changes that could be explored.

LGNSW consulted with councils to help inform the content of this submission. For detailed technical comments on the proposed amendments the Department should refer to individual council submissions.

This submission was endorsed by LGNSW Board in February 2023.

BACKGROUND

The Department's consultation, which closes on 13 January 2023, proposes the following changes to the Housing SEPP:

In-fill affordable housing

Increasing the in-fill affordable housing floor space ratio (FSR) bonuses by 25% and adjusting the base FSR threshold for calculating the FSR bonuses from 2.5:1 to 2:1. These provisions are available where 20% of a development's gross floor area (GFA) is delivered as affordable housing and are intended to improve the uptake of the in-fill affordable housing provisions.

Updates to the Guideline for Developing an Affordable Housing Contribution Scheme

The EIE also discusses the current framework for Affordable Housing Contribution Schemes. It acknowledges the need to review the guideline to ensure it provides the appropriate guidance and support for councils so that the process is easier and more efficient.

The review would aim to create more flexibility for councils by outlining alternative pathways for applying a scheme. This may include identifying areas and sites to be rezoned in the future.

State Significant Development Pathway

Introducing a new State significant development (SSD) pathway for large residential development with a capital investment value (CIV) of more than \$100 million that includes a minimum 20% affordable or social housing GFA along with a new SSD pathway for affordable housing to be delivered by the Transport Asset Holding Entity (TAHE) on its land through the TAHE Affordable Housing Pilot Program.

Planning pathways for social housing

The changes propose:

- Minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO;
- Expanded provisions for New South Wales Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO) to self-assess residential containing up to 75 dwellings; and
- A new SSD pathway for development containing more than 75 dwellings.

Group Homes

Replacing the group homes and hostels provisions with two new housing types (high support accommodation and supported living). The proposed changes respond to stakeholder feedback that the current definitions and planning provisions for group homes are not fit for purpose.

Temporary supportive accommodation

Mechanisms to make it easier to deliver temporary supportive accommodation (TSA) where there is the opportunity and the need. This might include the use of existing buildings that are temporarily vacant, or the temporary use of vacant land, for people experiencing, or at risk of, homelessness.

Accessibility and usability standards for independent living units

Updates to the accessibility and design standards for independent living unit (ILU) seniors housing.

Boarding Houses

Permitting boarding houses on more land in regional areas and extending the existing floor space ratio (FSR) bonus for this housing type to land where shop top housing is permitted.

GENERAL COMMENTS

LGNSW position

Local government supports investment in more social and affordable housing. Resolutions from the LGNSW 2022 Annual Conference reflect the significant concern of local councils about the effects of acute housing shortages on their communities across the state. They call for action in the following key areas:

- Locally-developed responses to short-term rental accommodation.
- Streamlining and facilitating plan making and affordable housing initiatives, including removing legislative and other barriers to the provision of affordable housing.
- Strategies to increase supply of secure tenure rental housing.
- Supporting policies and incentives for industry to deliver more diverse housing.

Resolutions relating to addressing the housing shortage are set out in Appendix 1. The Policy Platform for LGNSW¹, which reflects the collective positions of local government informed by the Local Government NSW Annual Conference, also highlights a number of actions on housing which point to common concerns and the diversity of issues across councils.

Erosion of council planning powers

While councils are supportive of measures to deliver more social and affordable housing, this needs to be done with due regard for the agreed strategic plans.

As the level of government closest to the community, local government plays an important role in engaging with and planning for the needs of local communities. Councils' Local Housing Strategies, Local Strategic Planning Statements and Local Environmental Plans (LEPs) that align with Regional Plans, Greater Sydney District Plans collectively deliver locally-appropriate plans to meet diverse housing needs while securing positive outcomes for future residents and existing communities.

State Environmental Planning Policies containing blanket provisions that override local controls undermine this framework for local strategic planning by disrupting outcomes endorsed through councils' local strategic planning processes. For example, the further expansion of state significant development (SSD) pathways for certain development types in the EIE is of concern as it would further remove local decision making and risks contravening the existing strategic intent or local plans endorsed by local communities. Self-assessment of development by state agencies such as LAHC and TAHE must be contingent on appropriate consideration of the local strategic plans and councils' input for each project. This will ensure

¹ https://www.lgnsw.org.au/common/Uploaded%20files/Policy/LGNSW_Policy_Platform_2022_V2.pdf

that such projects are appropriate to the local context, an important outcome for both social housing residents and local communities.

Incremental amendments to the Housing SEPP since its commencement in 2021 cumulatively add to a concerning trend of erosion of decision-making by local government and potential undermining of adopted strategic plans. The progressive expansion of certain provisions in the Housing SEPP continues to undermine local planning strategies and may result in development that is not responsive to the local context. Blanket provisions that apply statewide do not accommodate the unique differences between regional and metropolitan areas, coastal and inland and rural and remote settings. This points to a need for the Housing SEPP provisions in general to provide greater discretion for councils to determine both where certain forms of housing can be built and the development standards that apply. LGNSW therefore would like to see the development standards in the relevant Local Environmental Plan prevail to the extent of any inconsistency with the SEPP.

LGNSW asks that any further changes to the EIE are carefully considered to ensure they do not override the existing adopted strategies and local controls. Further, they must be measured and evidence based to ensure that the housing being delivered is fit for purpose and leads to positive outcomes for all residents – both existing and future.

Matters not addressed in the EIE

LGNSW has supported many provisions during the 2020 and 2021 consultations on the Housing SEPP and has appreciated the Department's work with local government in the past three years to address some planning provisions for affordable housing which have been problematic for many years. However, several key issues raised in LGNSW's previous submissions² remain to be addressed:

- The need for locally-developed responses to short-term rental (STRA) - Planning provisions for STRA should be amended to provide greater flexibility for councils to determine where STRA is permitted and the number of days that properties can be let, and the 21-day exemption should be removed. The NSW Government should commit to ongoing monitoring and research to measure the long-term impacts of STRA on local housing markets.
- Affordable housing that is promoted under the Housing SEPP should be in perpetuity, not 15 years as current provisions allow.
- Councils should be allowed to determine whether seniors housing is permissible in business zones.
- A monitoring program to measure the contribution of different numbers and types of affordable dwellings and enable assessment of whether the SEPP is delivering the outcomes sought for diverse and affordable housing.

² [LGNSW Submission on Proposed Housing Diversity SEPP EIE, October 2020](#) and [LGNSW Submission on Proposed Housing SEPP – Consultation draft September 2021](#)

Further, in 2022 councils resolved at the LGNSW Annual Conference (resolution 82) to call for the NSW Government to:

- reinstate the requirement that any development of seniors housing in R2 low density residential zones under the Housing SEPP be permitted only if carried out by the Land and Housing Corporation or operators under the *Retirement Villages Act 1999*;
- permanently exclude Seniors Housing under the Housing SEPP from applying to heritage conservation areas in local municipalities.³

01



Recommendation: That the Department gives consideration to further amending the Housing SEPP in response to matters of concern to local government that are not addressed in the EIE that relate to:

- Short term rental accommodation.
- Affordable housing in perpetuity.
- Seniors housing in business zones.
- Monitoring and measurement of Housing SEPP outcomes.
- Development of seniors housing in R2 low density zones.

³ [2022 Annual Conference Record of Decisions](#), Resolution #82

SPECIFIC COMMENTS

LGNSW has a number of concerns on specific amendments proposed in the EIE. These are set out below:

In-fill affordable housing

Increasing the in-fill affordable housing floor space ratio (FSR) bonuses by 25% and adjusting the base FSR threshold for calculating the FSR bonuses from 2.5:1 to 2:1. These provisions are available where 20% of a development's gross floor area (GFA) is delivered as affordable housing and are intended to improve the uptake of the in-fill affordable housing provisions.

Comment:

Councils recognise the need for affordable housing, however many councils are concerned when one-size-fits-all development controls, such as the proposed floor space bonuses, override local provisions. Councils have developed their local plans and development controls based on detailed understanding of the local area, their experience about impacts on amenity and with consideration of community aspirations. The proposed blanket statewide increase in the FSR bonus increases the risk of unintended outcomes which further undermines the community's trust in the planning system.

The EIE notes that variation to development standards under clause 4.6 of the Standard Instrument LEP can help developers realise FSR bonuses. It refers to the planned reforms to clause 4.6 (which have been under consideration since March 2021) that will make the variation requests simpler and that future guidance material will be prepared to support the roll-out of the reforms. This implies that it will be easier to vary development standards in the future using clause 4.6 to support an FSR bonus. It is unfortunate that these reforms have not been exhibited alongside this EIE. Councils must be able to consider these reforms alongside the proposal to increase FSR bonuses for affordable housing.

A further concern raised by councils is whether the adequacy of the 15 year provision for affordable housing is a sufficient social benefit given the bonuses and variations under clause 4.6 that may be sought. In light of the acute housing shortages statewide LGNSW is of the view that if the FSR bonus is increased, the affordable housing delivered under this provision should be provided in perpetuity.

02



Recommendation: That the proposal to increase the FSR bonus not be implemented until councils have been allowed to consider the planned reforms to clause 4.6 of the Standard Instrument LEP.

03



Recommendation: That Division 1 of the Housing SEPP be amended to require affordable housing dwellings to be provided in perpetuity (not limited to 15 years).

Updates to the Guideline for Developing an Affordable Housing Contribution Scheme

The EIE also discusses the current framework for Affordable Housing Contribution Schemes. It acknowledges the need to review the guideline to ensure it provides the appropriate guidance and support for councils so that the process is easier and more efficient.

The review would aim to create more flexibility for councils by outlining alternative pathways for applying a scheme. This may include identifying areas and sites to be rezoned in the future.

Comment:

The inference in the EIE that councils have been slow to take up Affordable Housing Contribution Schemes is inaccurate and portrays only part of the picture. For many years state policies permitted very few councils to implement such schemes. Prior to the expansion of the provisions enabling all councils to develop schemes⁴, a number of councils had expended significant resources over many years seeking inclusion in the former SEPP 70.

While all councils can now choose to develop an affordable housing contribution scheme, the Department's process for developing schemes set out in the *Guideline for Developing Contribution Schemes*⁵ is resource-intensive and complex. At the same time councils have

⁴ [State Environmental Planning Policy No 70 – Affordable Housing \(Revised Schemes\) \(SEPP 70\) was amended to include all NSW councils in February 2019.](#)

⁵ [Guideline for Developing Contributions Schemes](#), February 2019

been required to respond to an unprecedented level of planning reform in recent years and tasked with developing Local Strategic Planning Statements and, in the Greater Sydney Region, Local Housing Strategies. These responsibilities are overlaid with acute state-wide planner shortages and have coincided with the impacts of the COVID-19 pandemic and a wave of natural disasters – drought, bushfires and floods – all collectively contributing to significant workload and timing challenges for local government.

Many councils have indicated their intention to develop schemes and together with LGNSW have called for action from the NSW Government to improve the process for the timely approval of schemes under the Housing SEPP⁶.

LGNSW therefore welcomes the intention, as discussed in the EIE, to review the guideline. The intention to provide for more flexibility and alternative pathways is supported in principle. The process for assessing feasibility for each site and/or precinct is overly complex and many opportunities have been lost. LGNSW urges the Department to engage with local government to consider as a priority options and mechanisms that would enable councils to more easily develop and adopt these schemes. These should include streamlined and simplified approaches to setting contribution rates as well as consideration of a flat rate that can be applied across an LGA.

Given the importance of schemes to delivering affordable housing this review must be undertaken as a matter of urgency.

04



Recommendation: That the Department of Planning and Environment prioritise engagement with local government to commence an urgent review of the Guideline for Developing an Affordable Housing Contribution Scheme to streamline and simplify the process.

State Significant Development Pathway

Introducing a new State significant development (SSD) pathway for large residential development with a capital investment value (CIV) of more than \$100 million that includes a minimum 20% affordable or social housing GFA along with a new SSD pathway for affordable housing to be delivered by the Transport Asset Holding Entity (TAHE) on its land through the TAHE Affordable Housing Pilot Program.

⁶ [LGNSW Policy Platform](#), April 2022 – Position Statement 8.4

Comment:

LGNSW does not support the proposed SSD pathway for large residential development (with a capital investment value of more than \$100m) that includes a minimum 20% affordable or social housing. Councils continue to raise concerns about the expansion of SSD in the planning system. This provision further removes decision-making from councils and their communities. Councils point to frequent instances of inadequate consideration of local planning, such as the provision for local infrastructure, when development is assessed under this pathway.

The proposal in the EIE to allow for the affordable housing component to be only retained and managed as affordable housing for a minimum of 15 years is not supported. Given the housing affordability crisis, affordable housing generated through the planning system should be maintained as affordable housing in perpetuity.

The inclusion of affordable housing or social housing at a rate of 20% on government land as is proposed under the TAHE Affordable Housing Pilot Program is a welcome initiative. LGNSW has advocated for the use of government land for affordable housing as part of its policy platform which calls for:

Minimum targets of 5-10 per cent social and affordable housing across NSW and 25 per cent for government-owned land, and a NSW Government commitment to clarifying roles and responsibilities and providing resources, policies and plans to meet these housing needs.⁷

LGNSW recommends that consideration be given to increasing the proportion of affordable or social housing under the TAHE Affordable Housing Pilot Program to 25%.

05

Recommendation: That affordable housing provided as part of large-scale residential development and assessed as SSD be provided in perpetuity.

⁷ [LGNSW Policy Platform](#) Position Statement 8.3

06



Recommendation: That the proportion of affordable or social housing on government land under the TAHE Affordable Housing Pilot be lifted to 25%.

Planning pathways for social housing

The changes propose:

- minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO;
- expanded provisions for NSW Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO) to self-assess residential development containing up to 75 dwellings; and
- a new SSD pathway for development containing more than 75 dwellings.

Comment:

Councils recognise that there is a need for more social and affordable housing and strongly support continued government investment in additional social and affordable housing. However, they are concerned to ensure that the social and affordable housing that is developed contributes positively to local amenity and place making. LGNSW is therefore not supportive of the proposed planning pathways for social housing as they further override local council planning controls and their decision-making role. This is an ongoing concern of the sector and central to our ongoing advocacy which calls for:

Local government to retain control over the determination of locally appropriate development. Local planning powers must not be overridden by State plans and policies or misuse of State Significant Development provisions⁸.

In combination, the expansion of self-assessment for LAHC and AHO and the new SSD pathway will result in all residential development undertaken by LAHC and the AHO by-passing councils. This amounts to a further erosion of local plans and controls and is not supported. The proposed provisions would also allow for large-scale developments and precinct-wide renewal to by-pass councils.

⁸ LGNSW Policy Platform – Position Statement 7.2

In some locations, particularly where LAHC and AHO have a significant number of properties or large social housing estates, their renewal has a significant impact within an area, shaping the urban form and influencing social and economic outcomes for the whole community in the long term. It is therefore critical that local councils have oversight of the process.

While smaller in scale, dual occupancy standards are nevertheless important considerations for local amenity. The EIE proposes to mandate a minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO. As noted in the EIE this is lower than the standard in many LEPs. This one-size-fits-all standard is not supported as it may contravene local standards which have been developed with consideration of characteristics specific to the local area.

At a minimum, self-assessment by these agencies must be contingent on appropriate consideration of the local strategic plans and the council's input for each project. An important outcome for both social housing residents and local communities is to ensure that these projects are appropriate to the local context.

07



Recommendation: That the proposal to expand planning pathways for developments undertaken by LAHC and AHO is contingent on the Housing SEPP including a requirement that these agencies give appropriate consideration to the relevant local plans and obtain the council's input for each project.

Group Homes

The EIE proposes replacing the group homes and hostels provisions with two new housing types (high support accommodation and supported living), in response to stakeholder feedback that the current definitions and planning provisions for group homes are not fit for purpose.

Comment:

LGNSW recognises the need to update the provisions relating to group homes and for supported accommodation. It is acknowledged that the current provisions are problematic and not well-aligned with new models for provision of housing for people with a disability and other vulnerable groups.

The amendments proposed in the EIE represent a significant change from the current provisions. Councils have advised that they receive complaints from adjoining residents in relation to noise and other impacts on amenity arising from group homes. Councils are unable to respond to consider and mitigate potential amenity impacts of group home developments under complying development pathways. The Department should carefully consider feedback from councils on the proposed changes and work with local government to avoid any unintended consequences.

Accessibility and usability standards for independent living units

The EIE proposes to update accessibility and usability standards for seniors independent living units. Further, a draft Seniors Housing Design Guide has been developed to help inform design and assessment of seniors housing proposals.

Comment:

LGNSW supports proposed changes and updates in the EIE for accessibility and usability standards for independent living units. In general, the recommended changes align to the principles of universal design as they enhance accessibility and inclusion features in the design and construction of housing units for all – including those on very low to moderate incomes, seniors, and people with disability.

Universal design refers to all – not only to people with disability but to all people who may at times encounter access and inclusion issues. This includes parents with prams and young

children, people who require assistance animals for mobility, people who may have non-permanent injuries that restrict movement and older people with limited mobility.

Studies show that the cost of designing for all is not an issue – Livable Housing Australia, who developed the Livable Housing Design Guidelines, have demonstrated that if universal design features are designed at the very beginning the cost, if any, is negligible.

LGNSW acknowledges and supports the inclusion in the draft Seniors Housing Design Guide of universal design principles and their application to the seniors housing planning and design processes. This inclusion aligns with LGNSW's calls for NSW State Government agencies to adopt universal design principles in relevant strategies and plans and to be incorporated as 'business as usual' in all planning processes⁹.

LGNSW also acknowledges the intent and content of Chapter 5 in the Seniors Housing Design Guidelines ('Design for Physical Ageing and Dementia') which applies a universal design approach to meeting the needs of these more vulnerable stakeholders.

⁹ [LGNSW Policy Platform](#), Policy Position 8.6

CONCLUSION

An underlying theme in this submission is local government's concern about the expansion of statewide planning provisions and SSD assessment pathways that override existing accepted planning strategies and do not cater for local conditions. While it is important to provide for more social and affordable housing in the planning system, this should not be at the expense of local amenity and site conditions. Many of the proposed amendments exclude or by-pass councils and may have significant and long-term impacts for local areas, particularly where large scale, precinct-wide developments are proposed. Councils are also concerned that the provisions should deliver housing that is affordable and in perpetuity.

Many councils are committed to introducing affordable housing contribution schemes, but the current process is complex and resource intensive. While the EIE foreshadows reviewing the *Guideline for Developing an Affordable Housing Contribution Scheme* to streamline and simplify the process, it does not include specific changes to address the existing complexities. As the development of schemes is critical to delivery of affordable housing in perpetuity this review should be given urgent priority.

Beyond what has been proposed in the EIE, councils have proposed a range of planning system policy changes that could be explored to further improve planning and assessment processes for delivery of social and affordable housing. For the best chance of success, this will be contingent on genuine collaboration between the NSW Government and local government. LGNSW looks forward to discussing these ideas with the Department in due course.

For further information in relation to this submission, please contact Jane Partridge, Strategy Manager, Planning on 02 9242 4093 or jane.partridge@lgnsw.org.au.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: That the Department gives consideration to further amending the Housing SEPP in response to matters of concern to local government that are not addressed in the EIE that relate to:

- Short term rental accommodation.
- Affordable housing in perpetuity.
- Seniors housing in business zones.
- Monitoring and measurement of Housing SEPP outcomes.
- Development of seniors housing in R2 low density zones.

Recommendation 2: That the proposal to increase the FSR bonus not be implemented until councils have been allowed to consider the planned reforms to clause 4.6 of the Standard Instrument LEP.

Recommendation 3: That Division 1 of the Housing SEPP be amended to require affordable housing dwellings to be provided in perpetuity (not limited to 15 years).

Recommendation 4: That the Department of Planning and Environment prioritise engagement with local government to commence an urgent review of the Guideline for Developing an Affordable Housing Contribution Scheme to streamline and simplify the process.

Recommendation 5: That affordable housing provided as part of large-scale residential development and assessed as SSD be provided in perpetuity.

Recommendation 6: That the proportion of affordable or social housing on government land under the TAHE Affordable Housing Pilot be lifted to 25%.

Recommendation 7: That the proposal to expand planning pathways for developments undertaken by LAHC and AHO is contingent on the Housing SEPP including a requirement that these agencies give appropriate consideration to the relevant local plans and obtain the council's input for each project.

APPENDIX 1

2022 Annual Conference resolutions addressing the housing shortage

38 LGNSW Board	Housing and homelessness crisis
<p>That Local Government NSW calls upon the Australian and NSW Governments to take urgent and immediate action to address the housing availability and affordability crisis right across NSW by:</p> <ol style="list-style-type: none"> 1. funding a significant increase in the supply of social housing to address current shortfalls and keep pace with population growth and demand. 2. providing social housing for people who are homeless in disaster affected communities. 3. providing finance, government land and infrastructure for the supply of affordable housing to meet increased demand across NSW. 4. developing strategies to address the critical need for secure tenure rental housing for key workers in rural and regional areas, and urgently adopting measures to address the rental affordability crisis across NSW. 5. working with local government and community housing providers to develop efficient and sustainable models to significantly increase the supply of affordable housing. 6. removing legislative and other barriers to the provision of affordable housing such as use of council land for social and affordable housing, 3D printing for housing construction and tiny homes. 7. removing barriers that prevent incentivising owners to put existing housing (including unoccupied housing) into the long term rental market. 8. providing funding and assistance for rural and regional councils to develop and implement housing strategies. 9. enabling meanwhile use of NSW Government assets (land and building) for emergency, transitional and removable housing. <p><i>This issue was also raised by Berrigan Shire, Penrith City, Kyogle, Orange City, Tweed Shire, Shoalhaven City, Leeton Shire, Lake Macquarie City, Murray River, Newcastle City, Federation, Armidale Regional, Walgett Shire, Bega Valley Shire, North Sydney, Snowy Monaro Regional councils.</i></p>	

Berrigan Shire Council	Secure tenure housing
<p>That Local Government NSW lobbies the Australian and NSW governments to work with rural and regional councils and industry housing providers to address the place-based supply of secure tenure rental housing designed for key workers. Financing and construction of this key worker housing will require strategic partnerships between all levels of government and industry providers to ensure homelessness issues currently being faced in rural and regional areas are addressed urgently.</p>	

Penrith City Council	Delivery and funding of affordable housing
<p>That Local Government NSW urgently calls on NSW Government to work with Federal and Local Governments to facilitate a tri-level government approach and funding to the delivery of affordable rental housing and ownership.</p>	

Kyogle Council**Affordable housing**

That Local Government NSW lobbies the State and Federal Governments to increase the investment in social and affordable housing in areas where there is potential for growth but limited housing stock supply.

Orange City Council**Unused state land blocks**

That Local Government NSW calls upon the State Government to release the necessary percentage of State land under its control for social and affordable housing.

Tweed Shire Council**Social housing for flood affected communities**

That Local Government NSW advocates to the NSW Government on prioritising immediate provision of social housing for homeless and flood affected communities.

Shoalhaven City Council**Housing crisis**

That Local Government NSW requests the NSW Government to take urgent and immediate action to address the housing crisis in NSW.

Shoalhaven City Council**Housing affordability**

That Local Government NSW advocates for a wholistic process of legislative reform to achieve significant improvements to housing affordability and availability.

Leeton Shire Council**Increasing the supply of affordable housing in rural NSW**

That Local Government NSW calls on the NSW Government to work collaboratively with other levels of government, key bodies and interest groups to – as a matter of priority – provide direct financial, land and infrastructure support for affordable housing in rural NSW growth areas.

Lake Macquarie City Council**Review of paper subdivisions legislative provisions**

That Local Government NSW lobbies the NSW Government to commit to reviewing the Paper Subdivisions legislative provisions to investigate ways to improve their practical application and better facilitate authorised development of paper subdivisions that are suitable for urban development.

Lake Macquarie City Council**Affordable rental housing supply**

That Local Government NSW lobbies the NSW Government to commit to investigating proactive partnerships with Community Housing Providers to increase the supply of affordable rental housing by offering government-owned land as part of a development partnership.

Murray River Council**3D printing**

That Local Government NSW advocates on behalf of councils to remove impediments within the National Construction Code Series (BCA) and associated Australian Standards, that dissuade industry from adopting 3D printing, and the Government provide instruments to incentivise private industry to develop 3D printing.

Newcastle City Council**Housing affordability**

That Local Government NSW:

1. calls on the NSW State Government to increase its investment in public and social housing, working in partnership with all levels of government to meet local demand and deliver post-pandemic economic stimulus.
2. calls on the NSW State Government to increase its investment in affordable housing, including measures to prevent housing stress and vulnerability in rental and ownership for low-moderate income earners.
3. calls upon the state government to ensure that all new public, social and affordable housing at a minimum incorporates the new accessibility standards in the National Construction Code.

Federation Council**Housing strategies**

That Local Government NSW lobbies the NSW Government to develop a clear framework to allow Councils to work with the State Government, Industry in their Council areas who require housing, and other stakeholders, to allow Councils to develop or renew existing housing strategies that have a clearer connection to outcomes, including funding programs.

Armidale Regional Council**NSW Government assistance to regional councils for planning documents**

That Local Government NSW:

1. requests the NSW Government assist Regional Councils to make more simple adjustments to their planning documents in order to bring forward suitable "Logical Inclusion Housing areas" especially adjacent to the existing urban fabric of their towns and centres.
2. requests technical support be provided by Department of Planning and Environment (DPE) to assist Regional Councils to find and deliver suitable housing areas without the necessity to undertake major review and structural changes to their planning documents.
3. requests the NSW Government direct DPE not to exclude "Logical Inclusion Housing areas" for consideration because they have not already been identified in high level planning Council planning documents. It is acknowledged that processes would be conducted in accordance with accepted site planning assessment criteria and principles.

Armidale Regional Council**NSW Government assistance to regional councils for housing**

That Local Government NSW:

1. requests the NSW Government assist Regional Councils to identify and utilise council-owned land for housing.
2. requests technical support be provided by Department of Planning and Environment (DPE) to assist Regional Councils to reclassify appropriate community land to operational land to support use for housing purposes.
3. requests the NSW Government provide funding for infrastructure to activate suitable council-owned land for housing.

Walgett Shire Council**Increased delivery of social and affordable housing in regional and remote NSW**

That Local Government NSW calls upon the Australian and NSW State Governments to collaborate with the Local Government Sector in regional and remote NSW to increase the supply of both social and affordable housing by:

- a) Providing support to local councils through the NSW Department of Planning Industry and Environment for development of local housing strategies;
- b) Further incentivise community housing providers to expand their portfolios to meet current housing demand, particularly in rural remote NSW; and
- c) Provide assistance to Council's by way of fast tracking planning approvals & reducing bureaucratic red tape in the planning and assessment process

Bega Valley Shire Council **Investment in the development of affordable and social housing**

That Local Government NSW calls on the State Government for urgent investment in the development of affordable and social housing in regional NSW to address critical shortages in housing affordability and availability for people on low to moderate incomes and key workers.

Bega Valley Shire Council **Social and critical worker housing investment**

That Local Government NSW calls on the NSW Government to significantly increase investment in social and critical worker housing across NSW.

North Sydney Council **Use of unoccupied properties**

1. That Local Government NSW asks the State Government to investigate and look to implement measures to incentivise property owners to not leave their property(ies) unoccupied.
2. That in doing so, measures which allow such unoccupied properties to be utilised on a long or short time basis for low-cost accommodation be positively explored.

North Sydney Council **Productivity Review into housing affordability**

That Local Government NSW supports ALGA in their call for the establishment of a Productivity Review into housing affordability.

Snowy Monaro Regional Council **Housing in regional / rural areas with short term and tourist demands**

That Local Government NSW calls on the NSW Government to prioritise working in partnership with regional and rural Councils, especially those with seasonal demands for short term and tourist accommodation, that may include but not be limited to:

- a) removing policy and legislative barriers that prevent incentivising owners putting existing housing into the long term rental market.
- b) working proactively with stakeholders (eg Land Councils) to release more land for housing developments, with 25% allocated to social housing/ key workforce housing (Cooma Model).
- c) fund more social and emergency housing and accommodation.

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OPENING

As the peak body for local government in NSW, representing NSW general purpose councils and related entities, Local Government NSW (LGNSW) welcomes the opportunity to provide comment to the NSW Department of Planning and Environment (the Department) on the Explanation of Intended Effect (EIE) - Proposed amendments to the in-fill affordable housing, group homes, supportive accommodation and social housing provisions of the State Environmental Planning Policy (Housing) 2021, Housing SEPP.

LGNSW recognises and supports the NSW Government's aim to deliver more diverse and affordable homes and provide increased investment certainty for social and affordable housing forms.

Many of the policy levers to increase the supply of affordable and social housing are outside the planning system and most policy-settings relating to the drivers of housing demand rest with State and Commonwealth Governments and arguably have greater impact on housing prices and affordability – as we have seen following recent interest rate rises.

That said, there is potential for further improvements beyond what is proposed in the EIE, with greater collaboration between state and local governments on delivery of social and affordable housing. At the recent 2022 LGNSW Annual Conference, NSW councils proposed a range of planning system policy changes that could be explored.

LGNSW consulted with councils to help inform the content of this submission. For detailed technical comments on the proposed amendments the Department should refer to individual council submissions.

This submission was endorsed by LGNSW Board in February 2023.

BACKGROUND

The Department's consultation, which closes on 13 January 2023, proposes the following changes to the Housing SEPP:

In-fill affordable housing

Increasing the in-fill affordable housing floor space ratio (FSR) bonuses by 25% and adjusting the base FSR threshold for calculating the FSR bonuses from 2.5:1 to 2:1. These provisions are available where 20% of a development's gross floor area (GFA) is delivered as affordable housing and are intended to improve the uptake of the in-fill affordable housing provisions.

Updates to the Guideline for Developing an Affordable Housing Contribution Scheme

The EIE also discusses the current framework for Affordable Housing Contribution Schemes. It acknowledges the need to review the guideline to ensure it provides the appropriate guidance and support for councils so that the process is easier and more efficient.

The review would aim to create more flexibility for councils by outlining alternative pathways for applying a scheme. This may include identifying areas and sites to be rezoned in the future.

State Significant Development Pathway

Introducing a new State significant development (SSD) pathway for large residential development with a capital investment value (CIV) of more than \$100 million that includes a minimum 20% affordable or social housing GFA along with a new SSD pathway for affordable housing to be delivered by the Transport Asset Holding Entity (TAHE) on its land through the TAHE Affordable Housing Pilot Program.

Planning pathways for social housing

The changes propose:

- Minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO;
- Expanded provisions for New South Wales Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO) to self-assess residential containing up to 75 dwellings; and
- A new SSD pathway for development containing more than 75 dwellings.

Group Homes

Replacing the group homes and hostels provisions with two new housing types (high support accommodation and supported living). The proposed changes respond to stakeholder feedback that the current definitions and planning provisions for group homes are not fit for purpose.

Temporary supportive accommodation

Mechanisms to make it easier to deliver temporary supportive accommodation (TSA) where there is the opportunity and the need. This might include the use of existing buildings that are temporarily vacant, or the temporary use of vacant land, for people experiencing, or at risk of, homelessness.

Accessibility and usability standards for independent living units

Updates to the accessibility and design standards for independent living unit (ILU) seniors housing.

Boarding Houses

Permitting boarding houses on more land in regional areas and extending the existing floor space ratio (FSR) bonus for this housing type to land where shop top housing is permitted.

GENERAL COMMENTS

LGNSW position

Local government supports investment in more social and affordable housing. Resolutions from the LGNSW 2022 Annual Conference reflect the significant concern of local councils about the effects of acute housing shortages on their communities across the state. They call for action in the following key areas:

- Locally-developed responses to short-term rental accommodation.
- Streamlining and facilitating plan making and affordable housing initiatives, including removing legislative and other barriers to the provision of affordable housing.
- Strategies to increase supply of secure tenure rental housing.
- Supporting policies and incentives for industry to deliver more diverse housing.

Resolutions relating to addressing the housing shortage are set out in Appendix 1. The Policy Platform for LGNSW¹, which reflects the collective positions of local government informed by the Local Government NSW Annual Conference, also highlights a number of actions on housing which point to common concerns and the diversity of issues across councils.

Erosion of council planning powers

While councils are supportive of measures to deliver more social and affordable housing, this needs to be done with due regard for the agreed strategic plans.

As the level of government closest to the community, local government plays an important role in engaging with and planning for the needs of local communities. Councils' Local Housing Strategies, Local Strategic Planning Statements and Local Environmental Plans (LEPs) that align with Regional Plans, Greater Sydney District Plans collectively deliver locally-appropriate plans to meet diverse housing needs while securing positive outcomes for future residents and existing communities.

State Environmental Planning Policies containing blanket provisions that override local controls undermine this framework for local strategic planning by disrupting outcomes endorsed through councils' local strategic planning processes. For example, the further expansion of state significant development (SSD) pathways for certain development types in the EIE is of concern as it would further remove local decision making and risks contravening the existing strategic intent or local plans endorsed by local communities. Self-assessment of development by state agencies such as LAHC and TAHE must be contingent on appropriate consideration of the local strategic plans and councils' input for each project. This will ensure

¹ https://www.lgnsw.org.au/common/Uploaded%20files/Policy/LGNSW_Policy_Platform_2022_V2.pdf

that such projects are appropriate to the local context, an important outcome for both social housing residents and local communities.

Incremental amendments to the Housing SEPP since its commencement in 2021 cumulatively add to a concerning trend of erosion of decision-making by local government and potential undermining of adopted strategic plans. The progressive expansion of certain provisions in the Housing SEPP continues to undermine local planning strategies and may result in development that is not responsive to the local context. Blanket provisions that apply statewide do not accommodate the unique differences between regional and metropolitan areas, coastal and inland and rural and remote settings. This points to a need for the Housing SEPP provisions in general to provide greater discretion for councils to determine both where certain forms of housing can be built and the development standards that apply. LGNSW therefore would like to see the development standards in the relevant Local Environmental Plan prevail to the extent of any inconsistency with the SEPP.

LGNSW asks that any further changes to the EIE are carefully considered to ensure they do not override the existing adopted strategies and local controls. Further, they must be measured and evidence based to ensure that the housing being delivered is fit for purpose and leads to positive outcomes for all residents – both existing and future.

Matters not addressed in the EIE

LGNSW has supported many provisions during the 2020 and 2021 consultations on the Housing SEPP and has appreciated the Department's work with local government in the past three years to address some planning provisions for affordable housing which have been problematic for many years. However, several key issues raised in LGNSW's previous submissions² remain to be addressed:

- The need for locally-developed responses to short-term rental (STRA) - Planning provisions for STRA should be amended to provide greater flexibility for councils to determine where STRA is permitted and the number of days that properties can be let, and the 21-day exemption should be removed. The NSW Government should commit to ongoing monitoring and research to measure the long-term impacts of STRA on local housing markets.
- Affordable housing that is promoted under the Housing SEPP should be in perpetuity, not 15 years as current provisions allow.
- Councils should be allowed to determine whether seniors housing is permissible in business zones.
- A monitoring program to measure the contribution of different numbers and types of affordable dwellings and enable assessment of whether the SEPP is delivering the outcomes sought for diverse and affordable housing.

² [LGNSW Submission on Proposed Housing Diversity SEPP EIE, October 2020](#) and [LGNSW Submission on Proposed Housing SEPP – Consultation draft September 2021](#)

Further, in 2022 councils resolved at the LGNSW Annual Conference (resolution 82) to call for the NSW Government to:

- reinstate the requirement that any development of seniors housing in R2 low density residential zones under the Housing SEPP be permitted only if carried out by the Land and Housing Corporation or operators under the *Retirement Villages Act 1999*;
- permanently exclude Seniors Housing under the Housing SEPP from applying to heritage conservation areas in local municipalities.³

01



Recommendation: That the Department gives consideration to further amending the Housing SEPP in response to matters of concern to local government that are not addressed in the EIE that relate to:

- Short term rental accommodation.
- Affordable housing in perpetuity.
- Seniors housing in business zones.
- Monitoring and measurement of Housing SEPP outcomes.
- Development of seniors housing in R2 low density zones.

³ [2022 Annual Conference Record of Decisions](#), Resolution #82

SPECIFIC COMMENTS

LGNSW has a number of concerns on specific amendments proposed in the EIE. These are set out below:

In-fill affordable housing

Increasing the in-fill affordable housing floor space ratio (FSR) bonuses by 25% and adjusting the base FSR threshold for calculating the FSR bonuses from 2.5:1 to 2:1. These provisions are available where 20% of a development's gross floor area (GFA) is delivered as affordable housing and are intended to improve the uptake of the in-fill affordable housing provisions.

Comment:

Councils recognise the need for affordable housing, however many councils are concerned when one-size-fits-all development controls, such as the proposed floor space bonuses, override local provisions. Councils have developed their local plans and development controls based on detailed understanding of the local area, their experience about impacts on amenity and with consideration of community aspirations. The proposed blanket statewide increase in the FSR bonus increases the risk of unintended outcomes which further undermines the community's trust in the planning system.

The EIE notes that variation to development standards under clause 4.6 of the Standard Instrument LEP can help developers realise FSR bonuses. It refers to the planned reforms to clause 4.6 (which have been under consideration since March 2021) that will make the variation requests simpler and that future guidance material will be prepared to support the roll-out of the reforms. This implies that it will be easier to vary development standards in the future using clause 4.6 to support an FSR bonus. It is unfortunate that these reforms have not been exhibited alongside this EIE. Councils must be able to consider these reforms alongside the proposal to increase FSR bonuses for affordable housing.

A further concern raised by councils is whether the adequacy of the 15 year provision for affordable housing is a sufficient social benefit given the bonuses and variations under clause 4.6 that may be sought. In light of the acute housing shortages statewide LGNSW is of the view that if the FSR bonus is increased, the affordable housing delivered under this provision should be provided in perpetuity.

02



Recommendation: That the proposal to increase the FSR bonus not be implemented until councils have been allowed to consider the planned reforms to clause 4.6 of the Standard Instrument LEP.

03



Recommendation: That Division 1 of the Housing SEPP be amended to require affordable housing dwellings to be provided in perpetuity (not limited to 15 years).

Updates to the Guideline for Developing an Affordable Housing Contribution Scheme

The EIE also discusses the current framework for Affordable Housing Contribution Schemes. It acknowledges the need to review the guideline to ensure it provides the appropriate guidance and support for councils so that the process is easier and more efficient.

The review would aim to create more flexibility for councils by outlining alternative pathways for applying a scheme. This may include identifying areas and sites to be rezoned in the future.

Comment:

The inference in the EIE that councils have been slow to take up Affordable Housing Contribution Schemes is inaccurate and portrays only part of the picture. For many years state policies permitted very few councils to implement such schemes. Prior to the expansion of the provisions enabling all councils to develop schemes⁴, a number of councils had expended significant resources over many years seeking inclusion in the former SEPP 70.

While all councils can now choose to develop an affordable housing contribution scheme, the Department's process for developing schemes set out in the *Guideline for Developing Contribution Schemes*⁵ is resource-intensive and complex. At the same time councils have

⁴ [State Environmental Planning Policy No 70 – Affordable Housing \(Revised Schemes\) \(SEPP 70\) was amended to include all NSW councils in February 2019.](#)

⁵ [Guideline for Developing Contributions Schemes](#), February 2019

been required to respond to an unprecedented level of planning reform in recent years and tasked with developing Local Strategic Planning Statements and, in the Greater Sydney Region, Local Housing Strategies. These responsibilities are overlaid with acute state-wide planner shortages and have coincided with the impacts of the COVID-19 pandemic and a wave of natural disasters – drought, bushfires and floods – all collectively contributing to significant workload and timing challenges for local government.

Many councils have indicated their intention to develop schemes and together with LGNSW have called for action from the NSW Government to improve the process for the timely approval of schemes under the Housing SEPP⁶.

LGNSW therefore welcomes the intention, as discussed in the EIE, to review the guideline. The intention to provide for more flexibility and alternative pathways is supported in principle. The process for assessing feasibility for each site and/or precinct is overly complex and many opportunities have been lost. LGNSW urges the Department to engage with local government to consider as a priority options and mechanisms that would enable councils to more easily develop and adopt these schemes. These should include streamlined and simplified approaches to setting contribution rates as well as consideration of a flat rate that can be applied across an LGA.

Given the importance of schemes to delivering affordable housing this review must be undertaken as a matter of urgency.

04



Recommendation: That the Department of Planning and Environment prioritise engagement with local government to commence an urgent review of the Guideline for Developing an Affordable Housing Contribution Scheme to streamline and simplify the process.

State Significant Development Pathway

Introducing a new State significant development (SSD) pathway for large residential development with a capital investment value (CIV) of more than \$100 million that includes a minimum 20% affordable or social housing GFA along with a new SSD pathway for affordable housing to be delivered by the Transport Asset Holding Entity (TAHE) on its land through the TAHE Affordable Housing Pilot Program.

⁶ [LGNSW Policy Platform](#), April 2022 – Position Statement 8.4

Comment:

LGNSW does not support the proposed SSD pathway for large residential development (with a capital investment value of more than \$100m) that includes a minimum 20% affordable or social housing. Councils continue to raise concerns about the expansion of SSD in the planning system. This provision further removes decision-making from councils and their communities. Councils point to frequent instances of inadequate consideration of local planning, such as the provision for local infrastructure, when development is assessed under this pathway.

The proposal in the EIE to allow for the affordable housing component to be only retained and managed as affordable housing for a minimum of 15 years is not supported. Given the housing affordability crisis, affordable housing generated through the planning system should be maintained as affordable housing in perpetuity.

The inclusion of affordable housing or social housing at a rate of 20% on government land as is proposed under the TAHE Affordable Housing Pilot Program is a welcome initiative. LGNSW has advocated for the use of government land for affordable housing as part of its policy platform which calls for:

Minimum targets of 5-10 per cent social and affordable housing across NSW and at least 25 per cent for government-owned land, and a NSW Government commitment to clarifying roles and responsibilities and providing resources, policies and plans to meet these housing needs.⁷

LGNSW recommends that consideration be given to increasing the proportion of affordable or social housing under the TAHE Affordable Housing Pilot Program to at least 25%.

05

Recommendation: That affordable housing provided as part of large-scale residential development and assessed as SSD be provided in perpetuity.

⁷ [LGNSW Policy Platform](#) Position Statement 8.3

06



Recommendation: That the proportion of affordable or social housing on government land under the TAHE Affordable Housing Pilot be lifted to at least 25%.

Planning pathways for social housing

The changes propose:

- minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO;
- expanded provisions for NSW Land and Housing Corporation (LAHC) and the Aboriginal Housing Office (AHO) to self-assess residential development containing up to 75 dwellings; and
- a new SSD pathway for development containing more than 75 dwellings.

Comment:

Councils recognise that there is a need for more social and affordable housing and strongly support continued government investment in additional social and affordable housing. However, they are concerned to ensure that the social and affordable housing that is developed contributes positively to local amenity and place making. LGNSW is therefore not supportive of the proposed planning pathways for social housing as they further override local council planning controls and their decision-making role. This is an ongoing concern of the sector and central to our ongoing advocacy which calls for:

Local government to retain control over the determination of locally appropriate development. Local planning powers must not be overridden by State plans and policies or misuse of State Significant Development provisions⁸.

In combination, the expansion of self-assessment for LAHC and AHO and the new SSD pathway will result in all residential development undertaken by LAHC and the AHO by-passing councils. This amounts to a further erosion of local plans and controls and is not supported. The proposed provisions would also allow for large-scale developments and precinct-wide renewal to by-pass councils.

⁸ LGNSW Policy Platform – Position Statement 7.2

In some locations, particularly where LAHC and AHO have a significant number of properties or large social housing estates, their renewal has a significant impact within an area, shaping the urban form and influencing social and economic outcomes for the whole community in the long term. It is therefore critical that local councils have oversight of the process.

While smaller in scale, dual occupancy standards are nevertheless important considerations for local amenity. The EIE proposes to mandate a minimum lot size of 400m² for dual occupancies being delivered as complying development by LAHC and AHO. As noted in the EIE this is lower than the standard in many LEPs. This one-size-fits-all standard is not supported as it may contravene local standards which have been developed with consideration of characteristics specific to the local area.

At a minimum, self-assessment by these agencies must be contingent on appropriate consideration of the local strategic plans and the council's input for each project. An important outcome for both social housing residents and local communities is to ensure that these projects are appropriate to the local context.

07



Recommendation: That the proposal to expand planning pathways for developments undertaken by LAHC and AHO is contingent on the Housing SEPP including a requirement that these agencies give appropriate consideration to the relevant local plans and obtain the council's input for each project.

Group Homes

The EIE proposes replacing the group homes and hostels provisions with two new housing types (high support accommodation and supported living), in response to stakeholder feedback that the current definitions and planning provisions for group homes are not fit for purpose.

Comment:

LGNSW recognises the need to update the provisions relating to group homes and for supported accommodation. It is acknowledged that the current provisions are problematic and not well-aligned with new models for provision of housing for people with a disability and other vulnerable groups.

The amendments proposed in the EIE represent a significant change from the current provisions. Councils have advised that they receive complaints from adjoining residents in relation to noise and other impacts on amenity arising from group homes. Councils are unable to respond to consider and mitigate potential amenity impacts of group home developments under complying development pathways. The Department should carefully consider feedback from councils on the proposed changes and work with local government to avoid any unintended consequences.

Accessibility and usability standards for independent living units

The EIE proposes to update accessibility and usability standards for seniors independent living units. Further, a draft Seniors Housing Design Guide has been developed to help inform design and assessment of seniors housing proposals.

Comment:

LGNSW supports proposed changes and updates in the EIE for accessibility and usability standards for independent living units. In general, the recommended changes align to the principles of universal design as they enhance accessibility and inclusion features in the design and construction of housing units for all – including those on very low to moderate incomes, seniors, and people with disability.

Universal design refers to all – not only to people with disability but to all people who may at times encounter access and inclusion issues. This includes parents with prams and young

children, people who require assistance animals for mobility, people who may have non-permanent injuries that restrict movement and older people with limited mobility.

Studies show that the cost of designing for all is not an issue – Livable Housing Australia, who developed the Livable Housing Design Guidelines, have demonstrated that if universal design features are designed at the very beginning the cost, if any, is negligible.

LGNSW acknowledges and supports the inclusion in the draft Seniors Housing Design Guide of universal design principles and their application to the seniors housing planning and design processes. This inclusion aligns with LGNSW's calls for NSW State Government agencies to adopt universal design principles in relevant strategies and plans and to be incorporated as 'business as usual' in all planning processes⁹.

LGNSW also acknowledges the intent and content of Chapter 5 in the Seniors Housing Design Guidelines ('Design for Physical Ageing and Dementia') which applies a universal design approach to meeting the needs of these more vulnerable stakeholders.

⁹ [LGNSW Policy Platform](#), Policy Position 8.6

CONCLUSION

An underlying theme in this submission is local government's concern about the expansion of statewide planning provisions and SSD assessment pathways that override existing accepted planning strategies and do not cater for local conditions. While it is important to provide for more social and affordable housing in the planning system, this should not be at the expense of local amenity and site conditions. Many of the proposed amendments exclude or by-pass councils and may have significant and long-term impacts for local areas, particularly where large scale, precinct-wide developments are proposed. Councils are also concerned that the provisions should deliver housing that is affordable and in perpetuity.

Many councils are committed to introducing affordable housing contribution schemes, but the current process is complex and resource intensive. While the EIE foreshadows reviewing the *Guideline for Developing an Affordable Housing Contribution Scheme* to streamline and simplify the process, it does not include specific changes to address the existing complexities. As the development of schemes is critical to delivery of affordable housing in perpetuity this review should be given urgent priority.

Beyond what has been proposed in the EIE, councils have proposed a range of planning system policy changes that could be explored to further improve planning and assessment processes for delivery of social and affordable housing. For the best chance of success, this will be contingent on genuine collaboration between the NSW Government and local government. LGNSW looks forward to discussing these ideas with the Department in due course.

For further information in relation to this submission, please contact Jane Partridge, Strategy Manager, Planning on 02 9242 4093 or jane.partridge@lgnsw.org.au.

SUMMARY OF RECOMMENDATIONS

Recommendation 1: That the Department gives consideration to further amending the Housing SEPP in response to matters of concern to local government that are not addressed in the EIE that relate to:

- Short term rental accommodation.
- Affordable housing in perpetuity.
- Seniors housing in business zones.
- Monitoring and measurement of Housing SEPP outcomes.
- Development of seniors housing in R2 low density zones.

Recommendation 2: That the proposal to increase the FSR bonus not be implemented until councils have been allowed to consider the planned reforms to clause 4.6 of the Standard Instrument LEP.

Recommendation 3: That Division 1 of the Housing SEPP be amended to require affordable housing dwellings to be provided in perpetuity (not limited to 15 years).

Recommendation 4: That the Department of Planning and Environment prioritise engagement with local government to commence an urgent review of the Guideline for Developing an Affordable Housing Contribution Scheme to streamline and simplify the process.

Recommendation 5: That affordable housing provided as part of large-scale residential development and assessed as SSD be provided in perpetuity.

Recommendation 6: That the proportion of affordable or social housing on government land under the TAHE Affordable Housing Pilot be lifted to at least 25%.

Recommendation 7: That the proposal to expand planning pathways for developments undertaken by LAHC and AHO is contingent on the Housing SEPP including a requirement that these agencies give appropriate consideration to the relevant local plans and obtain the council's input for each project.

APPENDIX 1

2022 Annual Conference resolutions addressing the housing shortage

38 LGNSW Board	Housing and homelessness crisis
<p>That Local Government NSW calls upon the Australian and NSW Governments to take urgent and immediate action to address the housing availability and affordability crisis right across NSW by:</p> <ol style="list-style-type: none"> 1. funding a significant increase in the supply of social housing to address current shortfalls and keep pace with population growth and demand. 2. providing social housing for people who are homeless in disaster affected communities. 3. providing finance, government land and infrastructure for the supply of affordable housing to meet increased demand across NSW. 4. developing strategies to address the critical need for secure tenure rental housing for key workers in rural and regional areas, and urgently adopting measures to address the rental affordability crisis across NSW. 5. working with local government and community housing providers to develop efficient and sustainable models to significantly increase the supply of affordable housing. 6. removing legislative and other barriers to the provision of affordable housing such as use of council land for social and affordable housing, 3D printing for housing construction and tiny homes. 7. removing barriers that prevent incentivising owners to put existing housing (including unoccupied housing) into the long term rental market. 8. providing funding and assistance for rural and regional councils to develop and implement housing strategies. 9. enabling meanwhile use of NSW Government assets (land and building) for emergency, transitional and removable housing. <p><i>This issue was also raised by Berrigan Shire, Penrith City, Kyogle, Orange City, Tweed Shire, Shoalhaven City, Leeton Shire, Lake Macquarie City, Murray River, Newcastle City, Federation, Armidale Regional, Walgett Shire, Bega Valley Shire, North Sydney, Snowy Monaro Regional councils.</i></p>	

Berrigan Shire Council	Secure tenure housing
<p>That Local Government NSW lobbies the Australian and NSW governments to work with rural and regional councils and industry housing providers to address the place-based supply of secure tenure rental housing designed for key workers. Financing and construction of this key worker housing will require strategic partnerships between all levels of government and industry providers to ensure homelessness issues currently being faced in rural and regional areas are addressed urgently.</p>	

Penrith City Council	Delivery and funding of affordable housing
<p>That Local Government NSW urgently calls on NSW Government to work with Federal and Local Governments to facilitate a tri-level government approach and funding to the delivery of affordable rental housing and ownership.</p>	

Kyogle Council**Affordable housing**

That Local Government NSW lobbies the State and Federal Governments to increase the investment in social and affordable housing in areas where there is potential for growth but limited housing stock supply.

Orange City Council**Unused state land blocks**

That Local Government NSW calls upon the State Government to release the necessary percentage of State land under its control for social and affordable housing.

Tweed Shire Council**Social housing for flood affected communities**

That Local Government NSW advocates to the NSW Government on prioritising immediate provision of social housing for homeless and flood affected communities.

Shoalhaven City Council**Housing crisis**

That Local Government NSW requests the NSW Government to take urgent and immediate action to address the housing crisis in NSW.

Shoalhaven City Council**Housing affordability**

That Local Government NSW advocates for a wholistic process of legislative reform to achieve significant improvements to housing affordability and availability.

Leeton Shire Council**Increasing the supply of affordable housing in rural NSW**

That Local Government NSW calls on the NSW Government to work collaboratively with other levels of government, key bodies and interest groups to – as a matter of priority – provide direct financial, land and infrastructure support for affordable housing in rural NSW growth areas.

Lake Macquarie City Council**Review of paper subdivisions legislative provisions**

That Local Government NSW lobbies the NSW Government to commit to reviewing the Paper Subdivisions legislative provisions to investigate ways to improve their practical application and better facilitate authorised development of paper subdivisions that are suitable for urban development.

Lake Macquarie City Council**Affordable rental housing supply**

That Local Government NSW lobbies the NSW Government to commit to investigating proactive partnerships with Community Housing Providers to increase the supply of affordable rental housing by offering government-owned land as part of a development partnership.

Murray River Council**3D printing**

That Local Government NSW advocates on behalf of councils to remove impediments within the National Construction Code Series (BCA) and associated Australian Standards, that dissuade industry from adopting 3D printing, and the Government provide instruments to incentivise private industry to develop 3D printing.

Newcastle City Council**Housing affordability**

That Local Government NSW:

1. calls on the NSW State Government to increase its investment in public and social housing, working in partnership with all levels of government to meet local demand and deliver post-pandemic economic stimulus.
2. calls on the NSW State Government to increase its investment in affordable housing, including measures to prevent housing stress and vulnerability in rental and ownership for low-moderate income earners.
3. calls upon the state government to ensure that all new public, social and affordable housing at a minimum incorporates the new accessibility standards in the National Construction Code.

Federation Council**Housing strategies**

That Local Government NSW lobbies the NSW Government to develop a clear framework to allow Councils to work with the State Government, Industry in their Council areas who require housing, and other stakeholders, to allow Councils to develop or renew existing housing strategies that have a clearer connection to outcomes, including funding programs.

Armidale Regional Council**NSW Government assistance to regional councils for planning documents**

That Local Government NSW:

1. requests the NSW Government assist Regional Councils to make more simple adjustments to their planning documents in order to bring forward suitable "Logical Inclusion Housing areas" especially adjacent to the existing urban fabric of their towns and centres.
2. requests technical support be provided by Department of Planning and Environment (DPE) to assist Regional Councils to find and deliver suitable housing areas without the necessity to undertake major review and structural changes to their planning documents.
3. requests the NSW Government direct DPE not to exclude "Logical Inclusion Housing areas" for consideration because they have not already been identified in high level planning Council planning documents. It is acknowledged that processes would be conducted in accordance with accepted site planning assessment criteria and principles.

Armidale Regional Council**NSW Government assistance to regional councils for housing**

That Local Government NSW:

1. requests the NSW Government assist Regional Councils to identify and utilise council-owned land for housing.
2. requests technical support be provided by Department of Planning and Environment (DPE) to assist Regional Councils to reclassify appropriate community land to operational land to support use for housing purposes.
3. requests the NSW Government provide funding for infrastructure to activate suitable council-owned land for housing.

Walgett Shire Council**Increased delivery of social and affordable housing in regional and remote NSW**

That Local Government NSW calls upon the Australian and NSW State Governments to collaborate with the Local Government Sector in regional and remote NSW to increase the supply of both social and affordable housing by:

- a) Providing support to local councils through the NSW Department of Planning Industry and Environment for development of local housing strategies;
- b) Further incentivise community housing providers to expand their portfolios to meet current housing demand, particularly in rural remote NSW; and
- c) Provide assistance to Council's by way of fast tracking planning approvals & reducing bureaucratic red tape in the planning and assessment process

Bega Valley Shire Council **Investment in the development of affordable and social housing**

That Local Government NSW calls on the State Government for urgent investment in the development of affordable and social housing in regional NSW to address critical shortages in housing affordability and availability for people on low to moderate incomes and key workers.

Bega Valley Shire Council **Social and critical worker housing investment**

That Local Government NSW calls on the NSW Government to significantly increase investment in social and critical worker housing across NSW.

North Sydney Council **Use of unoccupied properties**

1. That Local Government NSW asks the State Government to investigate and look to implement measures to incentivise property owners to not leave their property(ies) unoccupied.
2. That in doing so, measures which allow such unoccupied properties to be utilised on a long or short time basis for low-cost accommodation be positively explored.

North Sydney Council **Productivity Review into housing affordability**

That Local Government NSW supports ALGA in their call for the establishment of a Productivity Review into housing affordability.

Snowy Monaro Regional Council **Housing in regional / rural areas with short term and tourist demands**

That Local Government NSW calls on the NSW Government to prioritise working in partnership with regional and rural Councils, especially those with seasonal demands for short term and tourist accommodation, that may include but not be limited to:

- a) removing policy and legislative barriers that prevent incentivising owners putting existing housing into the long term rental market.
- b) working proactively with stakeholders (eg Land Councils) to release more land for housing developments, with 25% allocated to social housing/ key workforce housing (Cooma Model).
- c) fund more social and emergency housing and accommodation.